

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KALVIN B. GARTON and
SILVA A. GARTON,

Plaintiffs,

v.

GALE ANDREW McCLINTOCK
and **PATRICIA L. McCLINTOCK,**

Defendants.

No. 3:16-cv-01953-SB

OPINION AND ORDER

MOSMAN, J.,

On February 7, 2017, Magistrate Judge Stacie F. Beckerman issued her Findings and Recommendation (“F&R”) [13], recommending that I GRANT Defendants’ Motion to Dismiss and DENY AS MOOT Defendants’ Motion to Transfer Venue and Motion to Strike [9].

Plaintiffs filed their Objections to the F&R [16] on February 21, 2017.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, *de novo* or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Beckerman's recommendation and ADOPT the F&R [13] as my own opinion. Defendants' Motion to Dismiss is GRANTED, and Defendants' Motion to Transfer Venue and Motion to Strike [9] are DENIED AS MOOT.

IT IS SO ORDERED.

DATED this 18 day of April, 2017.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge